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 Bellagio, LLC; MGM MIRAGE;  
 and Mandalay Resort Group

**UNITED STATES DISTRICT COURT  
 DISTRICT OF NEVADA**

Bellagio, LLC, a Nevada limited liability  
 company; MGM MIRAGE, a Delaware  
 corporation; and Mandalay Resort Group,  
 a Nevada corporation,

Plaintiffs,

v.

Winston West, an individual,  
 Defendant.

Case No.

**COMPLAINT FOR DAMAGES AND  
 INJUNCTIVE RELIEF**

- (1) Cybersquatting under  
 15 U.S.C. § 1125(d)
- (2) Trademark Infringement under  
 15 U.S.C. § 1114
- (3) Unfair Competition under  
 15 U.S.C. § 125(a)
- (4) Common Law Trademark  
 Infringement
- (5) Deceptive Trade Practices under  
 N.R.S. 598.0903, et seq.
- (6) Intentional Interference with  
 Prospective Economic Advantage

For their Complaint against Defendant, Plaintiffs Bellagio LLC, a Nevada limited  
 liability company; MGM MIRAGE, a Delaware corporation; and Mandalay Resort Group, a  
 Nevada corporation, complain and allege as follows:

**NATURE OF ACTION**

This is an action for trademark infringement and unfair competition under federal  
 statutes, with pendent claims for common law trademark infringement, state deceptive  
 trade practices, and intentional interference with prospective economic advantage.

1 Plaintiffs seek damages, attorneys' fees, costs, and preliminary and permanent injunctive  
2 relief.

### 3 JURISDICTION

4 1. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C.  
5 §§1331 and 1338(a). This Court has supplemental jurisdiction over Plaintiffs' state law  
6 claims pursuant to 28 U.S.C. § 1367(a).

7 2. This Court has personal jurisdiction over Defendant based upon the following:  
8 (a) he operates an active online travel services website on the Internet that is accessible to  
9 residents of the State of Nevada; (b) Defendant committed tortuous acts that he knew or  
10 should have known would cause injury to Plaintiffs in the State of Nevada.

11 3. Venue is proper in the United States District Court for the District of Nevada  
12 under 28 U.S.C. § 1391(b) and (c). Venue lies in the unofficial Southern Division of this  
13 Court.

### 14 PARTIES

15 4. Plaintiff MGM Mirage is a Delaware corporation that, through its subsidiaries,  
16 owns and operates the "MGM Grand," "Mirage," "Mandalay Bay," and "Bellagio" resort  
17 hotels and casinos in Las Vegas, Nevada.

18 5. Plaintiff Bellagio, LLC is a Nevada limited liability company that owns and  
19 operates the "Bellagio" resort hotel casino in Las Vegas, Nevada.

20 6. Plaintiff Mandalay Resort Group is a Nevada corporation that owns and  
21 operates the "Mandalay Bay" and "THEHOTEL" resort hotels and casinos in Las Vegas,  
22 Nevada.

23 7. Defendant is an individual who, upon information and belief, resides in  
24 Riverside, California.

### 25 ALLEGATIONS COMMON TO ALL COUNTS

26 8. The "Bellagio," "Mandalay Bay," "THEHOTEL at Mandalay Bay," and the  
27 "MGM Grand" are all famous destination resort hotels and casinos located on the world-  
28 renowned "Strip" in Las Vegas, Nevada.

1           9.     Since its opening in 1993, Plaintiff MGM MIRAGE and its predecessors in  
2 interest have continuously used the mark MGM GRAND in connection with advertising and  
3 promoting its property in the United States and around the world.

4           10.    Since 2000, MGM MIRAGE has continuously used the mark MGM MIRAGE  
5 in connection with advertising and promoting its properties in the United States and around  
6 the world.

7           11.    Since its opening in 1998, Plaintiff Bellagio, LLC has continuously used the  
8 mark BELLAGIO in connection with advertising and promoting its property in the United  
9 States and around the world.

10          12.    Since its opening in 1999, Plaintiff Mandalay Resort Group and its  
11 predecessors in interest have continuously used the mark MANDALAY BAY in connection  
12 with advertising and promoting its property in the United States and around the world.

13          13.    Since its opening in 2003, Plaintiff Mandalay Resort Group has continuously  
14 used the mark THEHOTEL in connection with advertising and promoting its property in the  
15 United States and around the world.

16          14.    The BELLAGIO, MANDALAY BAY, MGM GRAND, MGM MIRAGE, and  
17 THEHOTEL names and marks are among the most recognized and respected names in  
18 the casino resort industry. In fact, the BELLAGIO, MANDALAY BAY, MGM GRAND, MGM  
19 MIRAGE, and THEHOTEL names and marks have become famous in the casino resort  
20 industry. Each of these world famous resorts and casinos has spent tens of millions of  
21 dollars to advertise and promote their trademarks in print, broadcast media, and on the  
22 Internet through their various websites, which are accessible throughout the United States  
23 and around the world.

24          15.    Plaintiff MGM MIRAGE owns registered domain names incorporating  
25 trademarks at issue in this action, including but not limited to: <mgmmirage.com> and  
26 <mgmgrand.com>.

27          16.    Plaintiff MGM MIRAGE owns registered domain names on behalf of Plaintiff  
28 Bellagio, LLC, incorporating trademarks at issue in this action, including but not limited to:

1 <bellagio.com>, <bellagioresort.com>, and <bellagiolasvegas.com>.

2 17. Plaintiff MGM MIRAGE owns registered domain names on behalf of Plaintiff  
3 Mandalay Resort Group, incorporating trademarks at issue in this action, including but not  
4 limited to: <mandalaybay.com> and <thehotelatmandalaybay.com>.

5 18. True and correct copies of the home pages for each Plaintiffs web sites are  
6 attached hereto as **Exhibits 1 – 7**, and are incorporated by this reference. In addition,  
7 Plaintiffs have each made extensive use of their marks on, among other things, signage,  
8 wearing apparel, souvenirs, and promotional materials.

9 19. Plaintiff Bellagio, LLC owns the mark BELLAGIO and variants thereof (the  
10 “BELLAGIO Marks”), and has obtained federal mark registrations for the BELLAGIO Marks,  
11 including but not limited to:

- 12 (a) BELLAGIO for casino services (U.S. Reg. No. 2,232,486);
- 13 (b) BELLAGIO for hotel services (U.S. Reg. No. 2,232,487);
- 14 (c) BELLAGIO for hotel and casino services (U.S. Reg. No. 2,771,155);
- 15 (d) B BELLAGIO (and design) for casino services (U.S. Reg. No. 2,570,928
- 16 (e) B BELLAGIO (and design) for hotel services (U.S. Reg. No. 2,514,690).

17 None of those federal trademark registrations has been abandoned, canceled, or revoked.

18 20. Plaintiff MGM MIRAGE owns the marks MGM GRAND and licenses the mark  
19 MGM MIRAGE and variants thereof (the “MGM Marks”), and has obtained federal mark  
20 registrations and applications for the MGM Marks, including but not limited to:

- 21 (a) MGM for casino services (U.S. Reg. No. 2,534,227)
- 22 (b) MGM for hotel services (U.S. Reg. No. 1,060,489)
- 23 (c) MGM GRAND for hotel services (U.S. Reg. No. 1,060,488)
- 24 (d) MGM MIRAGE for casino services (U.S. Ser. No. 76-382321)
- 25 (e) MGM MIRAGE for casino services (licensed)(U.S. Reg. No. 2,645,452)
- 26 (f) MGM MIRAGE for hotel services (licensed)(U.S. Reg. No. 2,758,014).

27 21. Plaintiff MANDALAY RESORT GROUP, INC., owns the marks MANDALAY  
28 BAY, THEHOTEL and variants thereof (the “MANDALAY Marks”), and has obtained federal

1 mark registrations including but not limited to:

2 (a) MANDALAY BAY for hotel services (U.S. Reg. No. 2,275,015)

3 (b) MANDALAY BAY for casino services (U.S. Reg. No. 2,275,016)

4 (c) MANDALAY BAY for wearing apparel (U.S. Reg. No. 2,280,040)

5 22. Based upon federal trademark registrations, common law trademark  
6 protection, and extensive use, Plaintiffs own the exclusive right to use BELLAGIO, MGM  
7 MIRAGE, MGM GRAND, MANDALAY BAY, and THEHOTEL marks in connection with  
8 hotel, casino and related services.

9 23. The uniqueness and the extensive advertising and promotion of the  
10 "Bellagio," "MGM Grand," "Mandalay Bay," and "THEHOTEL" have resulted in the Plaintiffs'  
11 names and marks being distinctive and famous for resort hotel casino services.

12 24. On or about May 31, 2005, Defendant registered the <thebellagioresort.com>,  
13 <mgm Miragehotels.com>, <thehotelasvegas.com>, <themandalaybaycasino.com>,  
14 <themandalaybayhotel.com>, <themandalaybaylasvegas.com>,  
15 <themgmgrandhotels.com>, <themgmgrandlasvegas.com>, <themgmmiragehotels.com>  
16 Internet domain names ("the Infringing Domain Names") with Go Daddy Software, Inc., a  
17 registrar for domain names. These domain names contain Plaintiffs' famous BELLAGIO,  
18 MANDALAY BAY, MGM GRAND, MGM MIRAGE, and THEHOTEL trademarks coupled  
19 with the descriptive words "resort," "hotel," or "casino," which describes the very services  
20 offered by Plaintiffs' trademarks or the descriptive phrase "Las Vegas," which is the very  
21 location of Plaintiffs.

22 25. At some point after registration, Defendant linked the infringing domain name  
23 <thebellagioresort.com> to an online travel site. The Defendant's travel site operated  
24 under an exact replica of Plaintiff Bellagio, LLC's registered BELLAGIO trademark next to a  
25 color photograph of Plaintiff Bellagio, LLC's hotel and resort in Las Vegas, Nevada. A true  
26 and accurate copy of the previous home page for <thebellagioresort.com> is attached  
27 hereto as **Exhibit 8** and is incorporated by reference.

28 ///

1           26. At the current time, Defendant has all infringing domain names parked at Go  
2 Daddy Software, Inc. Each of these inactive sites contain links directing consumers to  
3 different Las Vegas resorts and travel service websites. True and accurate copies of the  
4 home pages for each domain name are attached hereto as **Exhibits 9 - 16** and are  
5 incorporated by reference.

6           27. By registering and/or using domain names containing Plaintiffs' trademarks,  
7 Defendant was and is attempting to trade on the goodwill of all named Plaintiffs.

8           28. By registering and/or using domain names containing Plaintiffs' trademarks,  
9 Defendant was and is attempting to create an association between the Infringing Domain  
10 Names and the Plaintiffs' famous trademarks.

11           29. Plaintiffs' marks at issue in this case were distinctive at the time Defendant  
12 registered the Infringing Domain Names.

13           30. Upon information and belief, Defendant registered all of the Infringing Domain  
14 Names at or about the same time.

15           31. By registering multiple infringing domain names, Defendant demonstrated a  
16 pattern of bad faith conduct under the Anticybersquatting Consumer Protection Act (ACPA)  
17 §3002.

18           32. Upon information and belief, the Defendant registered the Infringing Domain  
19 Names with the bad faith intent to profit from Plaintiffs' marks.

20           33. Upon information and belief, the Defendant has no trademark or other  
21 intellectual property rights in any of the Infringing Domain Names.

22           34. Upon information and belief, the Defendant had no prior use of the Infringing  
23 Domain Names in connection with the bona fide offering of any goods or services.

24           35. Upon information and belief, the Defendant intended to divert customers from  
25 each Plaintiffs' web site to a site accessible under the domain names in a manner that  
26 could harm the goodwill represented by Plaintiffs' marks.

27           36. Plaintiffs' marks incorporated in Defendant's Infringing Domain Names are  
28 distinctive and famous.

37. Upon information and belief, the Defendant did not believe or have reasonable grounds to believe that the use of the Infringing Domain Names was fair use or otherwise lawful.

38. On or about June 10, 2005, Defendant received a letter from Lou Ragg, Director of Internet Operations for Plaintiff MGM MIRAGE, in an attempt to resolve the Infringing Domain Names issue amicably and without unnecessary legal action. Defendant failed to respond to this letter.

**FIRST CLAIM FOR RELIEF**  
(Cybersquatting under the  
Lanham Act, 15 U.S.C. § 1125(d))

39. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set forth herein.

40. Defendant has registered, trafficked in, and/or used domain names that are identical or confusingly similar to and/or dilutive of Plaintiffs' trademarks, which were distinctive and/or famous at the time of registration of the Infringing Domain Names.

41. Upon information and belief, Defendant has or had a bad-faith intent to profit from Plaintiffs' trademarks.

42. As a direct and proximate result of such conduct, Plaintiffs have suffered, and will continue to suffer, monetary loss and irreparable injury to their businesses, reputations, and goodwill.

**SECOND CLAIM FOR RELIEF**  
(Trademark Infringement under  
the Lanham Act, 15 U.S.C. § 1114)

43. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set forth herein.

44. Defendant used in commerce the domain name <thebellagioresort.com>, which contained Plaintiff Bellagio, LLC's trademarks, and thus, was confusingly similar to Plaintiff's names and trademarks.

45. Defendant's use in commerce of marks confusingly similar to Plaintiff Bellagio LLC's trademarks for Defendant's services, and Defendant's use of the Internet domain



1 name <thebellagioresort.com> and the associated travel website constituted a  
2 reproduction, copying, counterfeiting, and colorable imitation of Plaintiff's trademarks in a  
3 manner that was likely to cause confusion or mistake or was likely to deceive consumers.

4 46. By using Plaintiff Bellagio, LLC's marks and/or marks confusingly similar to  
5 Plaintiffs' trademarks with the knowledge that Plaintiff owned and has used, and continues  
6 to use, its trademarks in Las Vegas, across the United States, and around the world,  
7 Defendant has intended to cause confusion, cause mistake, or deceive consumers.

8 47. Defendant used marks identical and/or confusingly similar to Plaintiff Bellagio,  
9 LLC's trademarks in connection with the sale, offering for sale or advertising of services in  
10 a manner that was likely to cause confusion, or to cause mistake, or to deceive consumers  
11 as to affiliation, connection, or association with Plaintiff or as to the origin, sponsorship, or  
12 approval of Defendant's services or commercial activities by Plaintiff.

13 48. Defendant's use of Plaintiff Bellagio, LLC's marks and/or marks confusingly  
14 similar to Plaintiff Bellagio, LLC's trademarks created a likelihood of confusion among  
15 consumers who may have falsely believed Defendant's business or web site was  
16 associated with Plaintiff's resorts, hotels, and casinos or that Plaintiff sponsored or  
17 approved of Defendant's services or commercial activities.

18 49. As a direct and proximate result of Defendant's infringement, Plaintiff Bellagio  
19 LLC has suffered, and will continue to suffer, monetary loss and irreparable injury to its  
20 business, reputation, and goodwill.

21 **THIRD CLAIM FOR RELIEF**  
22 (Unfair Competition under the  
Lanham Act, 15 U.S.C. § 1125(a))

23 50. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set  
24 forth herein.

25 51. Defendant's use in commerce of marks identical and/or confusingly similar to  
26 Plaintiff Bellagio's BELLAGIO trademarks in connection with Defendant's services, web  
27 sites, and Internet domain names, constitutes a false designation of origin and/or a false or  
28 misleading description or representation of fact, which likely caused confusion, caused



1 mistake, or deceived as to affiliation, connection, or association with Plaintiff, or as to the  
2 origin, sponsorship, or approval of Defendant's services or commercial activities by Plaintiff.

3 52. Defendant's use in commerce of Plaintiff's marks and/or marks confusingly  
4 similar to Plaintiff's trademarks with the knowledge that Plaintiff owned and has used its  
5 trademarks constitutes intentional conduct by Defendant to make false designations of  
6 origin and false descriptions about Defendant's services and commercial activities.

7 53. As a direct and proximate result of such unfair competition, Plaintiffs has  
8 suffered monetary loss and irreparable injury to its business, reputation, and goodwill.

9 **FOURTH CLAIM FOR RELIEF**  
10 (Common Law Trademark Infringement)

11 54. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set  
12 forth herein.

13 55. By virtue of having used and continuing to use its trademarks, Plaintiff  
14 Bellagio, LLC has acquired common law rights in those marks.

15 56. Defendant's use of marks identical and/or confusingly similar to Plaintiff's  
16 trademarks infringes Plaintiff's common law rights in its trademarks, and this use has  
17 caused confusion, mistake, or deception among consumers, who likely believed  
18 Defendant's services, web site and/or Internet domain name originated from, or was  
19 affiliated with, or endorsed by Plaintiff when, in fact, it was not.

20 57. As a direct and proximate result of Defendant's infringement of Plaintiffs'  
21 common law trademark rights under Nevada and other common law, Plaintiff has suffered  
22 monetary damages and irreparable injury to its business, reputation, and goodwill.

23 **FIFTH CLAIM FOR RELIEF**  
24 (Deceptive Trade Practices  
under N.R.S. § 598.0915)

25 58. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set  
26 forth herein.

27 59. Upon information and belief, in the course of conducting his business,  
28 Defendant knowingly made false representations as to affiliation, connection and/or

1 association with Plaintiff Bellagio, LLC by using marks confusingly similar to Plaintiff's  
2 trademarks and otherwise engaged in deceptive trade practices.

3 60. As the direct and proximate result of Defendant's conduct, Plaintiff has  
4 suffered monetary damages and irreparable injury to its business, reputation, and goodwill.

5 **SIXTH CLAIM FOR RELIEF**  
6 (Intentional Interference with  
Prospective Economic Advantage)

7 61. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set  
8 forth herein.

9 62. Upon information and belief, at the time Defendant adopted and began using  
10 Plaintiff Bellagio, LLC's names and marks and since that time, Defendant knew and has  
11 known that Plaintiff is in the business of providing resort hotel, casino, and travel services.

12 63. Upon information and belief, Defendant committed acts intended or designed  
13 to disrupt Plaintiff's prospective economic advantage arising from advertising and/or  
14 providing these services.

15 64. Defendant's actions disrupted Plaintiff's business by, among other things,  
16 diverting web users away from Plaintiff's web sites.

17 65. Defendant has no legal right, privilege or justification for his conduct.

18 66. As a direct and proximate result of Defendant's intentional interference with  
19 Plaintiff's prospective economic advantage, Plaintiff has suffered monetary damages and  
20 irreparable injury.

21 67. Based on the intentional, willful and malicious nature of Defendant's actions,  
22 Plaintiff is entitled to recover exemplary damages and reasonable attorneys' fees and costs  
23 incurred in connection with this action.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiffs respectfully pray that the Court grant the following relief:

26 A. A preliminary and permanent injunction prohibiting Defendant, his respective  
27 officers, agents, servants, employees and/or all persons acting in concert or participation  
28 with them, or any of them, from: (1) using Plaintiffs' trademarks or confusingly similar

1 variations thereof, alone or in combination with any other letters, words, letter strings,  
 2 phrases or designs, in commerce or in connection with any business or for any other  
 3 purpose (including, but not limited to, on web sites and in domain names); and (2)  
 4 registering, owning, leasing, selling, or trafficking in any domain names containing Plaintiffs'  
 5 trademarks or confusingly similar variations thereof, alone or in combination with any other  
 6 letters, words, phrases or designs;

7 B. A preliminary and permanent injunction requiring the current domain name  
 8 registrar to transfer the <thebellagioresort.com>, <mgmmiragehotels.com>,  
 9 <thehotellasvegas.com>, <themandalaybaycasino.com>, <themandalaybayhotel.com>,  
 10 <themandalaybaylasvegas.com>, <themgmgrandhotels.com>,  
 11 <themgmgrandlasvegas.com>, and <themgmmiragehotels.com>, domain names to each  
 12 appropriate Plaintiff;

13 C. An award of compensatory, consequential, statutory, and punitive damages to  
 14 Plaintiffs in an amount to be determined at trial;

15 D. An award of interest, costs and attorneys' fees incurred by Plaintiffs in  
 16 prosecuting this action; and

17 E. All other relief to which Plaintiffs are entitled.

18 DATED: January 13, 2006.

19  
 20 GREENBERG TRAUIG, LLP

21  
 22 Mark G. Tratos (Bar No. 4086)

23 Ronald D. Green Jr. (Bar No. 7360)

24 Andrew D. Sedlock (Bar No. 9183)

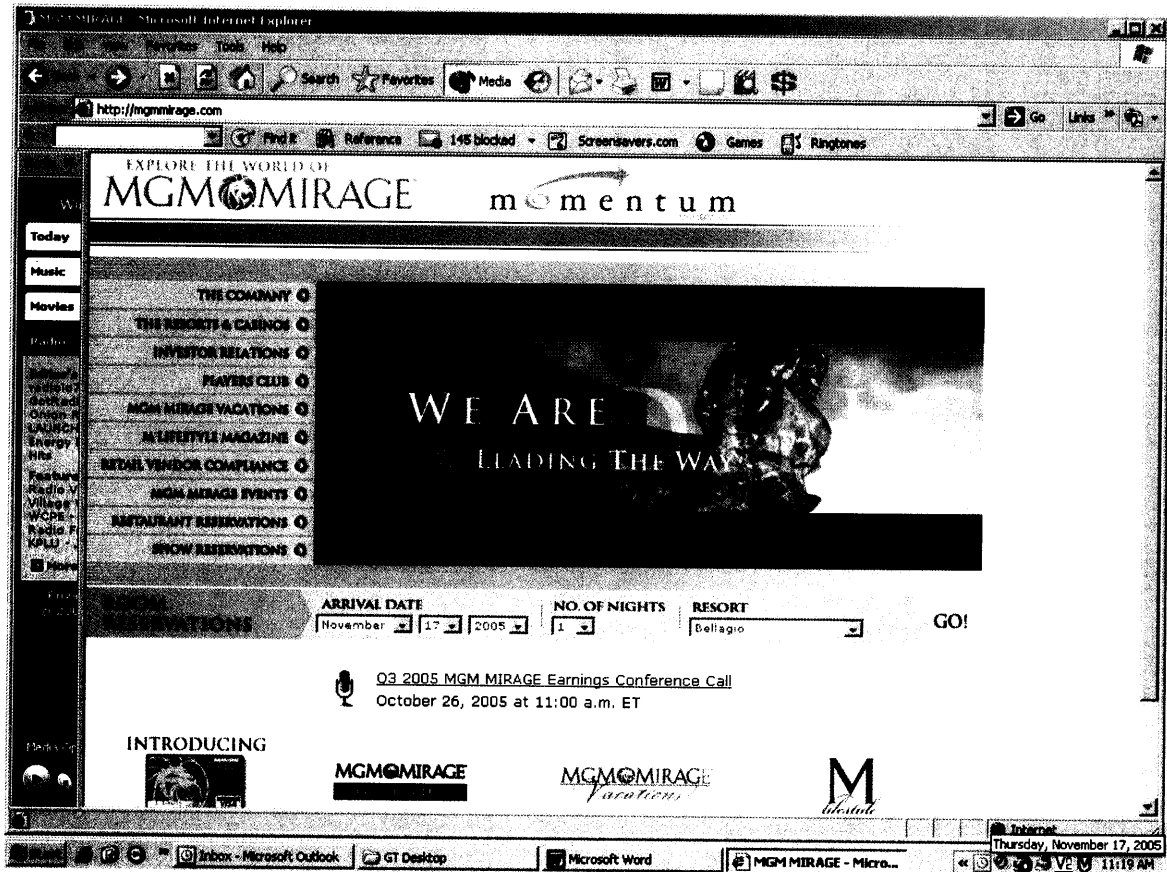
25 Tyler R. Andrews (Bar No. 9499)

26 3773 Howard Hughes Parkway, Suite 500 North

27 Las Vegas, Nevada 89109

28 Counsel for Plaintiff

**EXHIBIT 1**

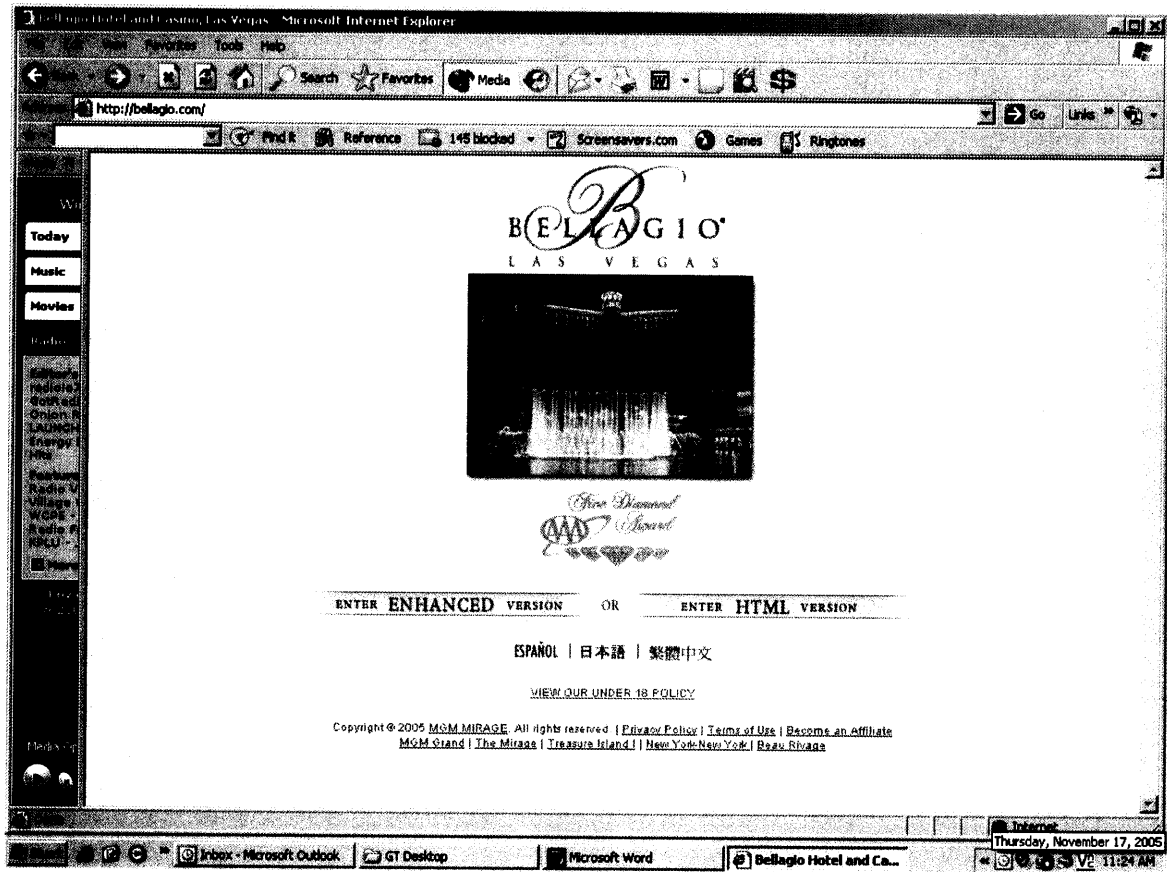


**EXHIBIT 2**





**EXHIBIT 3**



**EXHIBIT 4**



**EXHIBIT 5**